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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,636	11/20/2001	Michael J. Fell	MMD-PT004.1	1159

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WUJCIAK, ALFRED J

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

3632

DATE MAILED: 08/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/989,636	FELL, MICHAEL J.
	Examiner Alfred J Wujciak III	Art Unit 3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 November 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 November 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1. | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the first Office Action for the serial number 09/989,636, Method and Device for Merchandising a Product, filed on 11/20/01.

Information Disclosure Statement

The information disclosure statement filed on 11/20/01 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 16-18, 20, 24, and 26-30 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 3,640,389 to Snyder.

Snyder teaches an apparatus (figure 1) comprising a base (30) having a top portion (37) and a lateral side (32). The base comprises a first merchandising element (31) detachably engaged with the lateral side. The base comprises a shelving element (44) disposed on the top of base. The base further comprises a second merchandising element (20) detachably engaged with

one of the base and the shelving element. The second merchandising element has a shape (figure 1). The shelving element includes shelves (70), which extend in at least two directions. The second merchandising elements comprise at least a portion (21) extending beyond the shelving element (figure 1). The second merchandising element comprises an illuminated sign (51). The base comprises a product supporting element (41) having a peg board (45) and a slat wall (figure 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder in view of US Patent # 4,611,717 to Huston.

Snyder teaches the shelving element but fails to teach the at least one product is located on the shelving element. Furthermore, Synder teaches the second merchandising element is a sign (51) but fails to teach the sign is related to a shoe. Huston teaches at least one product (Ss) and shoe (Sh) are located on the shelving element (S). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the product and shoe to Snyder's shelving element and sign as taught by Huston to provide a display on the shelving element.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder in view of US Patent # 4,403,554 to Valentine et al.

Snyder teaches the first merchandising element but fails to teach the first merchandising element comprises a mirror. Valentine et al. teaches a mirror (abstract, lines 2-3). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added mirror to Snyder's first merchandising element as taught by Valentine et al. to provide an ornament appearance.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder in view of Valentine and in further view of Huston.

Snyder teaches the shelving element but fails to teach the at least one product is located on the shelving element. Furthermore, Synder teaches the second merchandising element is a sign (51) but fails to teach the sign is related to a shoe. Huston teaches at least one product (Ss) and shoe (Sh) are located on the shelving element (S). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the product and shoe to Snyder's shelving element and sign as taught by Huston to provide a display on the shelving element.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder in view of US Patent # Re. 36,676 to Sourlis.

Snyder teaches the base but fails to teach the base has an appearance of a masonry element. Sourlis teaches the appearance of the masonry element (10). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the

masonry appearance to Snyder's base as taught by Sourlis to provide an ornament appearance for the apparatus.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder in view of US Patent # 5,438,938 to Meeker et al.

Snyder teaches the base but fails to teach at least two wheels rotatably mounted to the base. Meeker et al. teaches at least two wheels (28) rotatably mounted to the base (22). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added at least two wheels to Snyder's base to as taught by Meeker et al. to provide a convenience in transporting the apparatus in a different location.

Claims 1-6, 9-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder.

Snyder teaches an apparatus (figure 1) comprising a base (30) having a top portion (37) and a lateral side (32). The base comprises a first merchandising element (31) detachably engaged with the lateral side. The base comprises a shelving element (44) disposed on the top of base. The base further comprises a second merchandising element (20) detachably engaged with one of the base and the shelving element. The second merchandising element has a shape (figure 1). The shelving element includes shelves (70), which extend in at least two directions. The second merchandising elements comprise at least a portion (21) extending beyond the shelving element (figure 1). The second merchandising element comprises an illuminated sign (51). The base comprises a product supporting element (41) having a peg board

Art Unit: 3632

(45) and a slat wall (figure 3). Snyder teaches the merchandising element and the base including an enclosed hollow area (figure 1 shows cross section between elements (44 and 31).

Snyder teaches the merchandising element but fails to teach the element is capable of bending through an angle of at least thirty five degrees. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have constructed Snyder's merchandising element with a flexible material to allow the element to bend through an angle of at least thirty five degrees to provide a convenience for accessing the element in the base.

Synder teaches all elements above but fails to teach a method of merchandising a product. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used Snyder's elements in method to provide a specify step for setting up a product.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder in view of Huston.

Snyder teaches the shelving element but fails to teach the at least one product is located on the shelving element. Furthermore, Synder teaches the second merchandising element is a sign (51) but fails to teach the sign is related to a shoe. Huston teaches at least one product (Ss) and shoe (Sh) are located on the shelving element (S). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the product and shoe to

Snyder's shelving element and sign as taught by Huston to provide a display on the shelving element.

Synder in view of Huston teaches all elements above but fails to teach a method of merchandising a product. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used Snyder's elements in method to provide a specify step for setting up a product.

Claims 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder in view of Sourlis.

Snyder teaches the base but fails to teach the base has an appearance of a masonry element. Sourlis teaches the appearance of the masonry element (10). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the masonry appearance to Snyder's base as taught by Sourlis to provide an ornament appearance for the apparatus.

Synder in view of Sourlis teaches all elements above but fails to teach a method of merchandising a product. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used Snyder's elements in method to provide a specify step for setting up a product.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder in view of US Patent # 6,412,743 to Fell.

Snyder teaches the base comprises the hollow area but fails to teach the hollow area includes a ballast material. Fell teaches the base (10) comprising the hollow area (35) with the ballast material (37). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have constructed Snyder's base with a ballast material as taught by Fell to provide a stable support for the base.

Synder in view of Fell teaches all elements above but fails to teach a method of merchandising a product. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used Snyder's elements in method to provide a specify step for setting up a product.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent # 5,881,892 to Loo

US Patent # 5,878,518 to Grewe

US Patent # 5,988,410 to Mandle

US Patent # 2,236,888 to Bishop

US Patent # 5,208,585 to Sprague

US Patent # 5,088,680 to Farmer

US Patent # 5,292,015 to Bumbera

Loo, Grewe, Mandle, Bishop, Sprague, Farmer and Bumbera teach a display stand.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred J Wujciak III whose telephone number is 703 306 5994. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Les Braun can be reached on 703 308 2156. The fax phone numbers for the organization where this application or proceeding is assigned are 703 308 3519 for regular communications and 703 308 3519 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1113.

Joey Wujciak
August 12, 2002


ANITA KING
PRIMARY EXAMINER